

Honorable Christopher M. Alston
Chapter 11
Hearing Date: January 26, 2018
Hearing Time: 9:30 a.m.

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In re

Northwest Territorial Mint LLC,

Debtor.

Case No. 16-11767

**BOY SCOUTS OF AMERICA'S
RESPONSE TO MOTION FOR ORDER
AUTHORIZING THE AUCTION AND
SALE OF THE DEBTOR'S EQUIPMENT,
DIES, TOOLING, ARCHIVES, AND
INVENTORY FREE AND CLEAR OF
ALL LIENS, CLAIMS, INTERESTS, AND
ENCUMBRANCES**

Related to Docket No. 1350

BOY SCOUTS OF AMERICA ("BSA"), a Congressionally-chartered corporation,
responds to the Motion for Order Authorizing Auction and Sale (Dkt. 1350) to state its interests
and reserve its rights:

1. Debtor's inventory likely includes coins, medallions and knives bearing
trademarks, service marks, emblems, logos, and other distinctive marks owned and controlled by
BSA ("BSA Marks").

2. Debtor's dies and tooling likely incorporate and use BSA Marks.

3. Debtor's use of the BSA Marks was pursuant to a *License and Royalty Agreement*
that has expired by its own terms, and, in any event, cannot be assumed and assigned without the
consent of BAS. *In re Catapult Entertainment*, 165 F.3d 747 (9th Cir. 1999) (because federal
patent law excused non-debtor licensor from rendering performance, debtor could not assume or

1 assign the non-exclusive patent license without the non-debtor's licensor's consent). The
2 analysis in *In re Catapult* holds true for trademark licenses. *In re Trump Entm't Resorts, Inc.*,
3 526 B.R. 116, 121 (Bankr. D. Del. 2015).

4 4. The License and Royalty Agreement provides for the payment of royalties by
5 Debtor to BSA even after its expiration.

6 5. Debtor and BSA are also parties to a *Letter of Agreement to Sell to the Boy Scouts*
7 *of America* under which BSA delivered purchase orders to Debtor for Merchandise using the
8 BSA Marks and for fixed prices.

9 WHEREFORE, BSA reserves its rights to the BSA Marks and related Royalties, its
10 interest in Debtor's inventory, dies, tooling, merchandise, and any other assets using the BSA
11 Marks, and to participate in any sale or auction of Debtor's assets.

12 DATED this 25th day of January, 2018.

13
14 FOX ROTHSCHILD LLP

15
16 By: /s/ Joseph E. Shickich, Jr.

17 Joseph E. Shickich, Jr., WSBA #8751

18 Attorney for Boy Scouts of America

19 Telephone: 206.624.3600

20 Facsimile: 206.389.1708

21 E-mail: jshickich@foxrothschild.com
22
23
24
25
26

CERTIFICATE OF SERVICE

Veronica I. Magda, declares:

1. I am an employee of Fox Rothschild LLP which represents Boy Scouts of America. I am a citizen of the United States, over the age of 18, and competent to make this Declaration.

2. On January 25, 2018, I electronically filed the forgoing document with the Clerk of the Court (using the CM/ECF System).

3. It is my understanding that the CM/ECF System will send notifications of this filing to all parties listed in this case to receive notice electronically.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED this 25th day of January, 2018.

/s/ Veronica Magda

Veronica I .Magda
Fox Rothschild LLP
1001 4th Ave. Suite 4500
Seattle, WA 98154
206-624-3600
vmagda@foxrothschild.com